



INTERIOR BOARD OF INDIAN APPEALS

WELSA Heirship Determinations of Martha Jane Sanders and Peter A. Wilson

26 IBIA 116 (07/13/1994)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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WELSA HEIRSHIP DETERMINATIONS : Order Docketing and Dismissing
OF MARTHA JANE SANDERS, and : Appeals
PETER A. WILSON :
: Docket Nos. IBIA 94-133-W
: IBIA 94-135-W
:
: July 13, 1994

Appellant Denise Bellecourt Levy, guardian ad litem for John Matthew Clark, seeks review of two orders issued by Administrative Judge Sandra L. Massetto on June 23, 1994, under the White Earth Reservation Land Settlement Act of 1985, 25 U.S.C. § 331 note (1988) (WELSA). The orders determined the heirs of Martha Jane Sanders, WC 94-0203, and Peter A. Wilson, WC 94-0206. For the reasons discussed below, the Board of Indian Appeals (Board) finds that these appeals must be dismissed for lack of jurisdiction.

Appellant's notice of appeal shows that the only basis for her appeal is the alleged unconstitutionality of Minn. Stat. § 525.172 (repealed by Act of May 29, 1985, 1985 Minn. Laws 851), which prohibits an illegitimate child from inheriting from the kindred of the child's father by right of representation. As the Board stated in the WELSA Heirship Determination of Richard C. Beaupre, 25 IBIA 133 (1994), it lacks jurisdiction to declare a State statute unconstitutional. See also Johnson v. Robison, 415 U.S. 361, 368 (1974); Reindeer Herders Association v. Juneau Area Director, 23 IBIA 28, 48, 99 I.D. 219, 229 (1992); Redleaf v. Muskogee Area Director, 18 IBIA 268 (1990), and cases cited therein.

It is apparent that appellant must make her constitutional challenge in Federal court.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, these appeals from Judge Massetto's orders are docketed and dismissed.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

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Anita Vogt
Administrative Judge